

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

|  |   |                                      |
|--|---|--------------------------------------|
| <b>DENNIS D. DAY and KIM L. DAY,</b>                                   | : | <b>CIVIL ACTION NO. 1:05-CV-1297</b> |
|  | : |                                      |
| <b>Plaintiffs</b>  | : | <b>(Judge Conner)</b>                |
|  | : |                                      |
| <b>v.</b>  | : |                                      |
|  | : |                                      |
| <b>STATE FARM MUTUAL<br/>AUTOMOBILE INSURANCE<br/>COMPANY, et al.,</b> | : |                                      |
|  | : |                                      |
| <b>Defendants</b>  | : |                                      |

**ORDER**

AND NOW, this 3rd day of November, 2005, upon consideration of the stipulation of dismissal (Doc. 12; see also Doc. 15), signed by plaintiffs and defendant State Farm Mutual Automobile Insurance Company (“State Farm”), averring that claims as against State Farm are dismissed with prejudice, see FED. R. CIV. P. 41(a)(1) (“[A]n action may be dismissed by the plaintiff without order of court . . . by filing a stipulation of dismissal signed by all parties who have appeared in the action.”), it is hereby ORDERED that:

1. Plaintiffs’ claims against defendant State Farm Mutual Automobile Insurance Company for breach of duty of good faith and fair dealing (count one), breach of contract (count two), unfair trade practices and consumer protection law (count three), unjust enrichment (count five), and promissory estoppel (count six) are DISMISSED with prejudice.<sup>1</sup> See FED. R. CIV. P. 41(a)(1).

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<sup>1</sup> The complaint also sets forth a claim for “breach of fiduciary duty/unconscionability.” (See Doc. 1, Ex. A at 12). However, the parties have not moved for the dismissal of this claim. (See Doc. 15).

2. Plaintiffs' claims against defendant State Farm Mutual Automobile Insurance Company for fraud and misrepresentation (count four), with respect to conduct occurring prior to August 26, 2005, are DISMISSED with prejudice. See FED. R. CIV. P. 41(a)(1).

S/ Christopher C. Conner  
CHRISTOPHER C. CONNER  
United States District Judge